

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19204
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On October 14, 2005, the staff of the Audit Development Unit of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing income tax and interest for the taxable years 2002 through 2004 in the total amount of \$12,813.

On December 14, 2005, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but rather wanted to submit income tax returns from its non-filing partners for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer is an Idaho partnership with 100% of its activities in Idaho. On the taxpayer's 2002 through 2004 Idaho partnership return, the taxpayer stated that all the taxpayer's income was reported on its partners' income tax returns. Included with the taxpayer's returns were schedules K-1 showing the distributive share of the taxpayer's income to each of its partners. The Audit Development Unit (ADU) researched the Tax Commission's records and found that not all the taxpayer's partners filed Idaho income tax returns for 2002, 2003, and 2004. The ADU determined which partners were required to file Idaho income tax returns and which partners failed to file Idaho income tax returns. The ADU corrected the taxpayer's returns and sent it a Notice of Deficiency Determination. The deficiency was the income tax, figured at the corporate tax rate, on the taxable income that was not reported to Idaho by its partners.

The taxpayer protested the ADU's determination and requested additional time to understand Idaho's law regarding its out-of-state partners. The taxpayer also asked that it be allowed more time to inform its partners of their Idaho filing requirement and time to prepare Idaho income tax returns.

The ADU granted the taxpayer's request for additional time. At the end of that time, the ADU contacted the taxpayer to see where things stood. The taxpayer responded that it would be submitting Idaho income tax returns for the identified partners. The taxpayer stated the returns would be provided by April 15, 2006.

Neither the taxpayer nor its partners provided the needed returns by the stated date. The ADU contacted the taxpayer again in the following months but never received income tax returns for the partners. The taxpayer kept reiterating the returns were being prepared; however, they were never submitted. The ADU referred the matter for administrative review.

The Tax Commission sent the taxpayer a letter giving it two alternative methods for having the Notice of Deficiency Determination redetermined. The taxpayer did not respond. The Tax Commission sent the taxpayer a follow-up letter to which it responded that it had been in contact with two of the out-of-state partners, and they were in the process of getting their returns prepared. The taxpayer also stated that its local certified public accountant was working on the other partners' returns and should have them completed within a week.

Over the course of the next several months, the Tax Commission remained in contact with the taxpayer checking on the progress of getting the partners' returns submitted. At various times the taxpayer stated two of the partners' returns were completed. In one contact, the taxpayer stated all that was needed was signatures. In two later contacts, the taxpayer stated the returns were ready to send in or that it would send in the returns it had. However, the Tax

Commission did not receive any returns from the taxpayer or from the identified partners. The Tax Commission, believing the taxpayer has had ample time to inform its partners, and the partners having ample time to prepare and provide their income tax returns, hereby issues its decision based upon the information available.

Idaho Code section 63-3022L states that partners of a partnership transacting business in Idaho may elect to have their Idaho taxable income reported and taxed on the partnership's Idaho income tax return if they have no other Idaho taxable income. It further states that if no election is made and the partner fails to file an Idaho income tax return, then the partnership shall be liable for the tax on such partner's Idaho taxable income at the rate applicable to corporations.

The taxpayer does not dispute that its partners are required to file Idaho income tax returns reporting their distributive share of the taxpayer's income. However, the taxpayer has had little success in getting the identified partners to provide their returns.

The ADU identified the non-filing partners by using a formula to calculate the percentage interest a partner needed to meet the filing requirements of Idaho Code section 63-3030. The ADU researched the Tax Commission's records to discover which partners did not file Idaho income tax returns. The Tax Commission reviewed the ADU's method and the schedules K-1 provided with the taxpayer's returns. The Tax Commission found that the ADU properly identified the partners who failed to file Idaho income tax returns.

Since these partners did not and have not filed Idaho income tax returns, the Tax Commission finds that Idaho Code section 63-3022L should be invoked and that the taxpayer pay the appropriate tax. Therefore, the Tax Commission upholds the Notice of Deficiency Determination as determined by the ADU.

WHEREFORE, the Notice of Deficiency Determination dated October 14, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$3,035	\$778	\$ 3,813
2003	3,235	659	3,894
2004	5,571	800	<u>6,371</u>
		TOTAL DUE	<u>\$14,078</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this ____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
